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| APPLICATION NO.   | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO.            | CONFIRMATION NO. |
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| 10/797,280  | 03/10/2004  | James Kain           | 20341-73172                    | 2936             |
| 23643   | 7590        | 04/01/2005           |                                |                  |
| BARNES & THORNBURG<br>11 SOUTH MERIDIAN<br>INDIANAPOLIS, IN 46204 |             |                      | EXAMINER<br>D ADAMO, STEPHEN D |                  |
|   |             |                      | ART UNIT                       | PAPER NUMBER     |
|   |             |                      | 3636                           |                  |

DATE MAILED: 04/01/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/797,280

Applicant(s)

KAIN ET AL.

Examiner

Stephen D'Adamo

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-53 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-42, 45-47 and 51 is/are rejected.
- 7) ☒ Claim(s) 43, 44, 48-50, 52 and 53 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 10 March 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 6/14/2004.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_.

## **DETAILED ACTION**

### ***Claim Rejections - 35 USC § 112***

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-29 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 1-29 are confusing in that similar terms appear to be used for different elements.

The terminology must be distinct throughout the claims when referring to different elements. Specifically, the claims recite “a planar front surface” for both the lower back section and the headrest. It is suggested to include terminology such as “first” and “second” to clarify any indefiniteness.

Claim 13 recites, “wherein the headrest includes a first side wall and a second side wall spaced apart from the second side wall” (lines 1-2), which is confusing and unclear. As understood, the headrest includes a first side wall and a second side wall spaced apart from the first side wall. Clarification is needed.

### ***Claim Objections***

2. Claim 46 is objected to under 37 CFR 1.75(c), as being of improper dependent form for failing to further limit the subject matter of a previous claim. Applicant is required to cancel the claim(s), or amend the claim(s) to place the claim(s) in proper dependent form, or rewrite the claim(s) in independent form.

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Specifically, claim 46 recites “wherein the anti-backout mechanism is positioned above the height-adjustment mechanism.” Claim 46 is dependent upon claim 45 which recites the same limitation in lines 3-4.

***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 30-32, 35, 40-42, 45 and 46 are rejected under 35 U.S.C. 102(b) as being anticipated by Kain (6,464,294).

Regarding claims 30-32 and 35, Kain discloses a “headrest for a juvenile vehicle seat” comprising a base including a bottom seat portion 12, a lower back section 14 coupled to the base and positioned to lie at an angle relative to the bottom seat portion and also including a planar front surface 38. A movable headrest 16 is coupled to the lower back section 14 and includes a planar front surface. The headrest is positioned forward, by small offset distance, of the planar front section surface of the lower back section 14. The headrest further comprises a rear planar surface engaged with the front planar surface of the lower back section, as seen in Figures 13-15. Kain also discloses a height adjustment mechanism or retainer 20 that couples the headrest to the lower back section. The height adjustment mechanism is arranged to move between a locked position (Figure 4) to prevent movement of the headrest relative to the lower back section and an

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unlocked position (Figure 5) to permit up and down movement of the headrest relative to the lower back section.

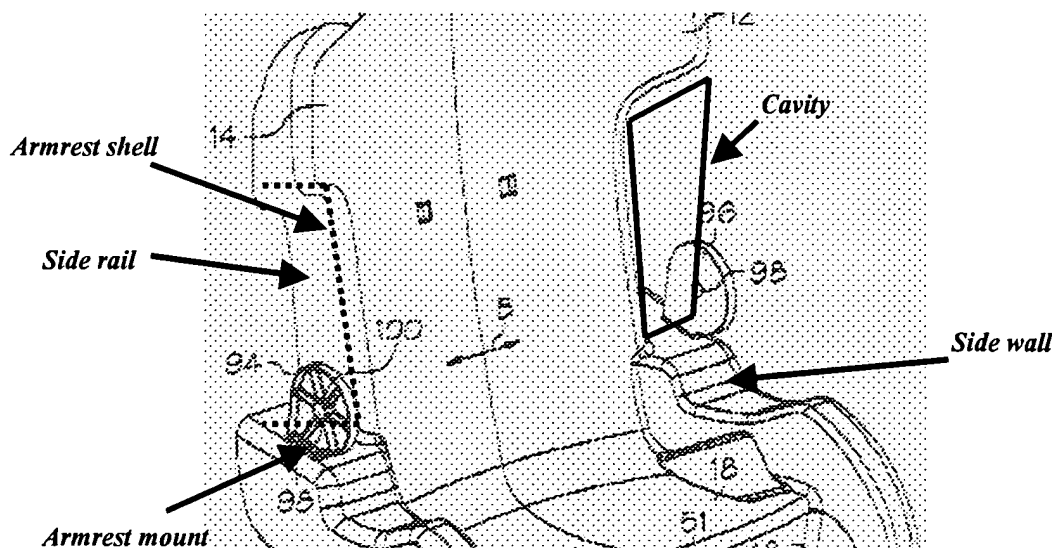
Regarding claims 40-42, Kain discloses a “headrest for a juvenile vehicle seat” comprising a base including a bottom seat portion 12, a lower back section 14 coupled to the base and positioned to lie at an angle relative to the bottom seat portion, a movable headrest 16 coupled to the lower back section 14 and an anti-backout mechanism 26, 28 coupled to the headrest to limit the height of the headrest above the bottom seat portion of the base. Specifically, the anti-backout mechanism comprises a stopper 26, 28 coupled to a side wall of the headrest to engage a top wall of the backrest portion. The top wall 42 of the back rest portion is located at the top of the lower back portion. Moreover, the stopper is a tab positioned at an angle relative to a vertical axis along the side wall.

Regarding claims 40, 45 and 46, Kain discloses a “headrest for a juvenile vehicle seat” comprising a base including a bottom seat portion 12, a lower back section 14 coupled to the base and positioned to lie at an angle relative to the bottom seat portion, a movable headrest 16 coupled to the lower back section 14 and an anti-backout mechanism 22, 24 coupled to the headrest to limit the height of the headrest above the bottom seat portion of the base. The height adjustment mechanism or retainer 20 is arranged to adjust the height of the headrest above the bottom seat portion. Further, the anti-backout mechanism, including slot 24 is positioned above the height adjustment mechanism 32, 26.

Claims 47 and 51 are rejected under 35 U.S.C. 102(b) as being anticipated by Amirault et al. (6,682,143).

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Amirault discloses a booster seat comprising a base including a bottom seat portion 18 and first and second side walls coupled to the bottom seat portion and positioned in spaced apart relation to each other. Furthermore, a lower back section on backrest 16 coupled to the base and positioned to lie at an angle relative to the bottom seat portion. The lower back section includes a planar body and first and second armrest shells coupled to the planar body. The shells are shown below and are positioned in spaced apart relation to each other and are formed to define a cavity to receive an armrest mount of a first and second side wall of the base therein. The lower back section further includes first and second side rails wherein the first and second armrest shells are coupled to the first and second side rails, respectively.



### *Claim Rejections - 35 USC § 103*

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person

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having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-4, 8, 16, 17, 20, 21, 33, 34, 37 and 39 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kain (6,464,294).

Kain discloses a “headrest for a juvenile vehicle seat” comprising a base including a bottom seat portion 12, a lower back section 14 coupled to the base and positioned to lie at an angle relative to the bottom seat portion and also including a planar front surface 38. A movable headrest 16 is coupled to the lower back section 14 and includes a planar front surface. The headrest is positioned forward, by small offset distance, of the planar front section surface of the lower back section 14. The headrest further comprises a rear planar surface engaged with the front planar surface of the lower back section, as seen in Figures 13-15. Kain also discloses a height adjustment mechanism or retainer 20 that couples the headrest to the lower back section. The height adjustment mechanism is arranged to move between a locked position (Figure 4) to prevent movement of the headrest relative to the lower back section and an unlocked position (Figure 5) to permit up and down movement of the headrest relative to the lower back section. Moreover, the front planar surfaces cooperate to define a seat back for a juvenile seat.

Regarding claim 8, alignment means 24 maintain alignment between the headrest and the lower back section as the headrest is moved upwardly and downwardly relative to the lower back section.

Regarding claims 16, 17, 20 and 21, an anti-backout mechanism 22, 24 is coupled to the headrest to limit the height of the headrest above the bottom seat portion of the base.

Specifically, the anti-backout mechanism comprises a stopper 22 coupled to a side wall

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of the headrest to engage a top wall (top of slot 24) of the backrest portion. Note, there is a stopper on both side portions of the rear side wall of the headrest. The height adjustment mechanism or retainer 20 is arranged to adjust the height of the headrest above the bottom seat portion. Further, the anti-backout mechanism, including slot 24 is positioned above the height adjustment mechanism 32, 26.

Specifically referring to claims 16 and 21, the height adjustment

Regarding claims 37 and 39, Kain a "headrest for a juvenile vehicle seat" comprising a base including a bottom seat portion 12, a seat back including a lower back section 14 and a movable headrest 16 coupled to the base. The headrest is positioned forward, by small offset distance, of the planar front section surface of the lower back section 14.

Kain also discloses an adjuster or retainer 20 that moves the headrest up and down relative to the lower back section. Further, a means 22, 24 for preventing the headrest 16 from being removed from the lower back section as the headrest is being moved upwardly to the lower back section. The preventing means includes an anti-backout mechanism, which comprises a stopper 22 coupled to a side wall of the headrest to engage a top wall (top arc of slot 24) of the backrest portion. The side wall of the headrest is located at the rear side of the headrest.

Regarding all of the claims rejection herewith, Kain fails to expressly disclose that the spaced apart distance of the headrest from the lower back section is less than approximately 0.375 inches. However, Kain does position the headrest a small distance in front of the lower back section. Furthermore, it would be obvious to one having ordinary skill in the art at the time the invention was made to have the distance from the



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headrest to the lower back section be less than 0.375 inches since the lateral offset distance from the FSMV213 for the year 2004 requires the offset distance for the back surface of all juvenile vehicle seat to be less than 0.375 inches.

Claims 5-7, 13-15, 36 and 38 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kain (6,464,294) in view of Lovie (5,845,968).

Kain discloses a “headrest for a juvenile vehicle seat” comprising a base including a bottom seat portion 12, a lower back section 14 coupled to the base and positioned to lie at an angle relative to the bottom seat portion and also including a planar front surface 38. A movable headrest 16 is coupled to the lower back section 14 and includes a planar front surface. The headrest is positioned forward, by small offset distance, of the planar front section surface of the lower back section 14. The headrest further comprises a rear planar surface engaged with the front planar surface of the lower back section, as seen in Figures 13-15. Kain also discloses a height adjustment mechanism or retainer 20 that couples the headrest to the lower back section. The height adjustment mechanism is arranged to move between a locked position (Figure 4) to prevent movement of the headrest relative to the lower back section and an unlocked position (Figure 5) to permit up and down movement of the headrest relative to the lower back section. Moreover, the front planar surfaces cooperate to define a seat back for a juvenile seat. However, Kain fails to expressly disclose the headrest defining an area formed to receive a portion of the back section therein. Yet, Lovie teaches of a child safety seat including a lower back section 54 and a headrest 52. The headrest further comprises a back plate to define a planar front surface and a channel 78. Note the channel includes a top surface and a first and second

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side surface. The channel 78 defines an area to receive a portion of the lower back section 54 therein. The lower back section also includes a planar wall formed to define a planar front surface, a top wall and two side walls 70, 72. The first and second side rails of the lower back section are positioned between the first and second side wall of the headrest. Lovie also teaches of a height adjustment mechanism formed to adjust the height of the headrest above the bottom seat portion of the base relative to the lower back section and including an actuator or finger grips 98 and 100 with pawls or spring biased bars 86, 88 movable between a locked and unlocked position to prevent the headrest from moving relative to the lower back section. The actuator is coupled to one of the first and second side walls of the headrest via pivot pins 90, 92. The first and second side rails of the lower back section include a plurality of vertically spaced slots 74, 76 and the pawls or bars 86, 88 are coupled to each of the actuators 98, 100 and are spring biased to be received within one or more of the vertically-spaced slots. The actuators are each coupled to one of the adjustment bars to move the respective bars or pawls from a locked position received within the vertically-spaced slots to an unlocked position disengaged from the vertically-spaced slots. It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the height adjustment mechanism of Kain with a channel in the lower back section and the headrest with finger gripping actuators, pawls and vertically-spaced slots, as taught by Lovie, for providing a stronger and sturdier headrest support and adjustment mechanism for a child safety seat.

***Allowable Subject Matter***

3. Claims 43, 44, 48-50, 52 and 53 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

4. Claims 9-12, 18, 19, 22-29 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

***Conclusion***

5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Sedlack (6,811,216), Eastman et al. (6,705,675), Ganser et al. (6,550,856), Nakagawa (6,045,184), Nakagawa (6,019,426), Kain (2002/0036418) and Meeker et al. (2004/0124677) all show various features of the claimed invention.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Stephen D'Adamo whose telephone number is 703-305-8173. The examiner can normally be reached on Monday-Thursday 6:00-3:30, 2nd Friday 6:00-2:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Pete Cuomo can be reached on 703-308-0827. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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March 25, 2005



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